

Chinnamma Joy Vs. Kunjamma Mohan

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Court : Kerala

Decided On : Jan-29-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Chinnamma Joy

Respondent : Kunjamma Mohan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN WEDNESDAY, THE 29TH DAY OF JANUARY 2014 9TH MAGHA, 1935 OP (MAC).No. 4245 of 2013 (O) ----- I.A. NO.5237/2013 IN OP.562/1990 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOTTAYAM. PETITIONER(S): ----- 1. CHINNAMMA JOY, 61-51-148, FLUSHING STREET, NEWYORK.

2. BIJU KURUVILLA, 2524, 8TH STREET, EAST MENDROW, USA.

3. JAISON KURUVILLA, 61-51-148, FLUSHING STREET, NEW YORK, REPRESENTED BY POWER OF ATTORNEY HOLDER SIBY JOSEPH, S/O.JOSEPH, PLATHARA HOUSE, PAMPADY P.O., KOTTAYAM TALUK. BY ADV. SRI.KISHOR B. RESPONDENT(S): ----- 1. KUNJUNJAMMA MOHAN, PARAPPARAMBIL, KOOTTIKKAL P.O.-685 501.

2. UNITED INDIA INSURANCE CO. LTD., THODUPUZHA-685 608.

3. P.C. KURIEN, PALATHIRICKAL, KARINTHIRI, CHINNAR-685 501.

4. ORIENTAL INSURANCE COMPANY LTD., THODUPUZHA-685 608. BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA). ADV. SRI.JOHN JOSEPH VETTIKAD. THIS OP (MAC) HAVING COME UP FOR ADMISSION ON2901-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rs. OP (MAC).No. 4245 of 2013 (O) APPENDIX PETITIONER'S EXHIBITS:- EXHIBIT P1. COPY OF THE

JUDGMENT

OF HON. SUPREME COURT IN CIVIL APPEAL NO.4945 TO49482013 DATED0207/2013. EXHIBIT P2. COPY OF

ORDER

IN IA. 5237/2013 IN O.P.562/1990 DATED2310/2013 OF MAC TRIBUNAL, KOTTAYAM. RESPONDENT'S EXHIBITS:- NIL. //TRUE COPY// P.A. TO JUDGE rs. K. VINOD CHANDRAN, J - - - - - OP(MAC) No.4245 of 2013 - - - - - Dated this the 29th day of January, 2014

JUDGMENT

The petitioners are dependants of the deceased in a motor accident who filed claim petition before the Motor Accidents Claim Tribunal, Kottayam numbered as OP No.562/1990. An award was passed which finally reached the Hon'ble Supreme Court, wherein, a number of matters were disposed of by a common judgment. In the petitioner's case judgment was passed in Civil Appeal No.4947/2013. It is to be noticed that the accident occurred in 1990 and till date the petitioners have received only some amounts as compensation.

2. After the Supreme Court judgment dated 2.7.2013, the petitioners were before the Tribunal seeking disposal of the amounts awarded, in which OP(MAC)4245/2013 :

2. : conditional orders were passed. The petitioners in the present writ petition are aggrieved by Ext.P2 order of the Motor Accidents Claims Tribunal by which the

Tribunal directed that on the receipt of cheques from the Insurance Company it has to be invested in fixed deposits in the name of the respective respondents as per the terms of the award. Hence it was directed that the award amount in excess of Rs.1 lakh each is to be kept in fixed deposit in the name of the respective respondents as has been directed by the Tribunal in the original award.

3. Definitely, such an award was passed by the Tribunal, initially, in the year 2000, following the decision of the Hon'ble Supreme Court in General Manager, KSRTC v. Susamma Thomas (AIR 1994 SC1631 since two of the claimants were minors. OP(MAC)4245/2013 :

3. : However, much water has flowed under the bridge and both the minors have attained majority more than a decade back. The principle behind keeping the award amounts in deposit so that it is not frittered away by the claimants, who may not have the capacity to decide as to how the funds are to be employed, cannot said to be surviving at this juncture. In any event, the Hon'ble Supreme Court has clarified the position in A.V Padma v. R. Venugopal (2012 (3) SCC378. It is also to be specifically noticed that Ext.P1 judgment of the Hon'ble Supreme Court directs that the amounts awarded as compensation shall be paid within three months. In such circumstances, Ext.P2 is not sustainable and the same is set aside. There shall be a direction to the Motor Accidents Claims Tribunal, OP(MAC)4245/2013 :

4. : Kottayam to immediately disburse the amounts deposited by the Insurance Company to the petitioners or their power of attorney. Writ petition allowed. No costs. Sd/- (K. VINOD CHANDRAN, JUDGE) jma //true copy// P.A to Judge

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